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An Open Letter to Housing Providers:

As you know, the New Jersey Law Against Discrimination (LAD) prohibits, among other things, housing discrimination based on familial status. The LAD exempts facilities from that prohibition that are designated as "housing for older persons." For a facility to qualify for the "housing for older persons" exemption, the LAD requires, among other things, that at least 80% of the occupied units are occupied by at least one person 55 years of age or older per unit. (The remaining 20% of units may be occupied by persons under age 55, and the housing provider may still qualify for the exemption if other conditions are met.) The Division on Civil Rights (DCR) does not count unoccupied units or those occupied by caretakers or maintenance workers when calculating whether a housing community meets the 80% threshold.

In the wake of Hurricane Sandy, please be advised that effective immediately, the DCR will interpret the "housing for older persons" exemption to allow "housing for older persons" developments to provide housing to evacuees under the age of 55 and not count those units toward the 80% and 20% calculations, so long as the housing units are made available to evacuees without restrictions based upon of familial status. In so doing, DCR is following guidance announced by the U.S. Department of Housing & Urban Development (HUD) in enforcing the Fair Housing Act. Both the DCR and HUD hope to encourage housing providers to make vacant housing units available to families displaced by Hurricane Sandy.

Nothing herein should be construed to suggest that housing facilities for older persons are somehow exempt from the LAD's prohibition of discrimination against current/potential residents on the basis of race, creed, color, national origin, ancestry, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, nationality, or source of lawful income used for rental or mortgage payments.

We hope that the attached Questions and Answers issued by HUD on this topic will answer any questions you may have. Otherwise, you should feel free to contact us at (609) 292-4605.

Sincerely,

Craig Sashihara, Director

